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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,667	03/12/2001	Jeffrey K. Dellinger	37168/82320	1994

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Barnes & Thornburg  
600 One Summit Square  
Fort Wayne, IN 46802

EXAMINER

GREIMEL, JOCELYN

ART UNIT PAPER NUMBER

3693

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/804,667

Applicant(s)

DELLINGER ET AL.

Examiner

Jocelyn Greimel

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This second Non-final Rejection is in response to Applicant's Amendments and Remarks filed on August 03, 2006. On March 13, 2006, claims 17-36 were elected with traverse. The amendments stem from an interview conducted on June 27, 2006. Claims 17-36 are pending. Claim 17 is an independent claim.

***Response to Amendment***

1. Applicant's argument regarding:

(1) "there is never a situation described by Golden in which the available account value (or market value) is zero, yet annual payments are nonetheless made to the client, per a guarantee"

of independent claim 17 has been considered but is moot in view of the new grounds of rejection.

2. Applicant's arguments/remarks regarding dependent claims 18-21, 23-24, 26-29, 30-31 and 35 have been considered but are found not persuasive.

3. Applicant's argument regarding claim 32 has been considered but is moot in view of the new grounds of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claim 17 is rejected under 35 U.S.C. 103(a) in view of Golden. In reference to claim 17, Golden discloses:

- a. a computerized method for administering an annuity product having a withdrawal feature and a guarantee (col. 2, lines 24-28) comprising the steps of;
- b. (a) establishing an annuity account from which withdrawals can be made (col. 2, lines 41-49),
- c. (b) inputting data relating to the annuity account, including data relating to at least one account owner, an account value and a maximum withdrawal rate for a given withdrawal frequency (col. 8, lines 29-57),

d. (c) paying withdrawals to the account owner and deducting amounts of the withdrawals from the account value (col. 12, lines 47-66) and

5. Golden does not explicitly disclose "providing a guarantee that said withdrawals will continue to be paid for a specified time period, provided that the rate of said withdrawals does not exceed the maximum withdrawal rate, even if the account value is exhausted before the end of the specified time period." However, Golden discloses a method, which provides guaranteed withdrawals or payments for a specified time period. Golden states that the withdrawals must be partial withdrawals. A partial withdrawal will leave an amount in the account, which the computer program has determined will allow continued payments. In regard to the language "even if the account value is exhausted before the end of the specified time period", Golden discloses that if the withdrawals are below a certain level (i.e.: certain partial withdrawals) that "*lifetime income during the first and second periods, which may be increased, but not decreased below the minimum.*" (Golden: col. 2, lines 62- 67 - col. 3, lines 1-2 and col. 3, lines 39-62).

6. Applicants merely restate their arguments regarding dependent claims 18-21, 23-24, 26-29, 30-31 and 35 and have been considered but the previous rejections stand for the reasons delineated in the first non-final rejection.

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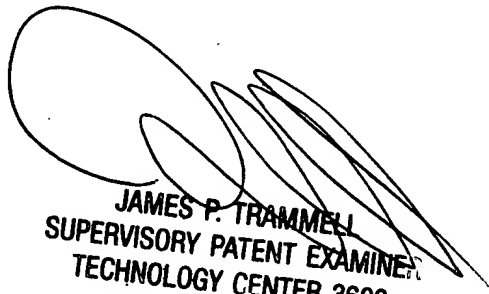
7. Applicant's argument regarding claim 32 has been considered but are moot in view of the new grounds of rejection. In reference to claim 32, Mody discloses charging a fee for the guarantee of payment. It would have been obvious to one skilled in the art at the time of the invention to use the fee or charge of Mody in the computerized method for administering an annuity product of Golden. Both Mody and Golden are programs in the financial field. The motivation for using this charge would be to protect the issuing company in the event the account value was less than the guaranteed payment amount.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jocelyn Greimel whose telephone number is (571) 272-3734. The examiner can normally be reached on Monday - Friday 8:30 AM - 4:30 PM EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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Jocelyn Greimel  
Examiner, Art Unit 3693  
October 19, 2006